

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

ANTONIO A. GUTIERREZ,

No. 2:16-CV-02025-SB

Petitioner,

ORDER

v.

BRAD CAIN, SRCI Superintendent,

Respondent.

HERNÁNDEZ, District Judge:

Magistrate Judge Beckerman issued a Findings and Recommendation [41] on March 7, 2019 in which she recommends that this action be dismissed with prejudice. Petitioner filed timely objections to the Findings and Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the

Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

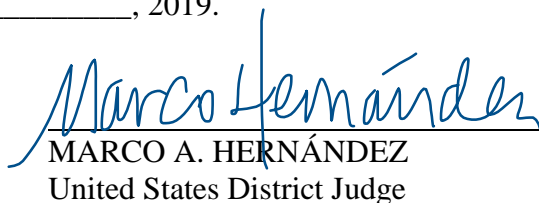
The Court has carefully considered Petitioner's objections and concludes that the objections do not provide a basis to modify the recommendation. The Court has also reviewed the pertinent portions of the record *de novo* and finds no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court adopts Magistrate Judge Beckerman's Findings and Recommendation [41]. Petitioner's Habeas Petition [2] is DISMISSED for lack of jurisdiction. The Court declines to recharacterize the petition as a civil rights complaint. In the alternative, the Court DENIES Petitioner's Habeas Petition on the merits. The Court declines to issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2). This action is dismissed with prejudice.

IT IS SO ORDERED.

DATED this 14 day of Oct, 2019.


MARCO A. HERNÁNDEZ
United States District Judge